

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

RUDY FLORENCIO and OSCAR GUERRA,

Plaintiffs,

- against -

FLOR AZTECA DELI & GROCERY INC. and/or any other  
entities affiliated with or controlled by FLOR AZTECA DELI  
& GROCERY INC., and SANDRA GONZALEZ AND JUAN  
TENDIA, individually,

Defendants.

**Case No.: 18cv6619  
(ILG)(JO)**

**PLAINTIFFS' MOTION TO ENTER JUDGMENT PURSUANT TO  
DEFENDANTS' RULE 68 OFFER OF JUDGMENT**

Now come Plaintiffs Rudy Florencio and Oscar Guerra ("Plaintiffs"), by and through their attorneys Virginia & Ambinder, LLP, and for their motion to Enter Judgment Pursuant to Defendants' Rule 68 Offer of Judgment state as follows:

1. On or about November 26, 2018 Plaintiffs filed this action styled as *Rudy Florencio and Oscar Guerra v. Flor Azteca Deli & Grocery Inc. et. al.*, Case Number 18cv6619 (ILG)(JO). [See Dkt. No. 1].

2. On May 10, 2019 Defendants served their Rule 68 Offer on Plaintiffs via email. Defendants' offer of judgment represents that judgment shall be entered in the amount of One Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000.00), representing full payment of all unpaid wages and damages owed, as well as interests and attorneys' fees and costs. [See Exhibit "A," Defendants' Rule 68 Offer of Judgment].

3. On May 21, 2019, Plaintiffs' requested and Defendants' consented to a ten day extension of Defendants' Rule 68 Offer. Defendants indeed, consented to any further extensions needed by Plaintiffs.

4. On June 4, 2019, Plaintiffs accepted Defendants' Rule 68 Offer of Judgment (the "offer") via electronic email to Defendants' attorney of record.

5. On June 5, 2019 Plaintiffs filed their Notice of Acceptance of Defendants' Rule 68 Offer of Judgment ("notice of acceptance") with this Court via its ECF electronic filing system. [See Dkt. No. 23].

6. On June 5, 2019 Plaintiffs served, via email and first class mail, a copy of Plaintiffs' e-filed Notice of Acceptance of defendants' Rule 68 Offer of Judgment. [See Dkt. No. 24].

7. Federal Rules of Civil Procedure Rule 68(a) reads:

(a) Making an Offer; Judgment on an Accepted Offer.

At least 14 days before the date set for trial, a party defending a claim may serve on an opposing party an offer to allow judgment on specified terms, with costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, wither party may then file the offer and notice of acceptance, plus proof of service. The clerk must then enter judgment.

8. Therefore, upon filing the acceptance of the offer and notice of acceptance plus proof of service, judgment is to be entered.

9. Plaintiffs have filed their acceptance if the offer, notice of acceptance and proof of service.

10. Based on the foregoing, pursuant to Defendants' accepted Rule 68 Offer of Judgment, Plaintiffs respectfully request that this Court enter judgment in favor of Plaintiffs in the amount of \$150,000.00 in fulfillment of Plaintiffs' unpaid wages and damages owed, as well as interests and attorneys' fees and costs.

WHEREFORE, in light of the above, Plaintiffs Rudy Florencio and Oscar Guerra, through their counsel, Virginia & Ambinder, LLP., respectfully request that this Court enter Judgment in favor of Plaintiffs in the amount of One Hundred Fifty Thousand Dollars and Zero Cents

(\$150,000.00) for Plaintiffs' unpaid wages and applicable damages, as well as interests and attorneys' fees and costs pursuant to Defendants' accepted Rule 68 Offer of Judgment.

Dated: June 5, 2019

Respectfully submitted,

/s/Leonor H. Coyle  
VIRGINIA & AMBINDER, LLP  
40 Broad St. 7th Floor  
New York, New York 10004  
Email: lcoyle@vandallp.com  
Tel. 212 943-9080

*Attorneys for Plaintiffs*